Bill after the 52nd constitutional amendment.

THE VICE-CHAIRMAN (SHRI M.P. KAUSHIK): The question is: Has the hon. Member, Shri J.P. Goyal, leave of the House to withdraw the Bill.

SOME HON. MEMBERS: Yes.

The Bill was, by leave, withdrawn.

THE CONSTITUTION (AMENDMENT) BILL, 1982 (TO AMEND ARTICLES 16, 19, 30, etc.)

SHRI BISWA GOSWAMI (Assam): Sir, I beg to move:

"That the Bill further to amend the Constitution of India, be taken into consideration."

Mr. Vice-Chairman, Sir, while moving Bill No. 31 of 1982 regarding the amendment to the Constitution, I will be very brief in my observations because there is very little time. I am retiring on 2nd of April and I would like to know some of the reactions of some of the hon. Members and also of the hon. Minister to the proposals which I have brought forward. The purpose of this Bill is to highlight the problem faced by the smaller sub-nationalities of the country.

As you know, there was a movement in Assam for long six years and the main purpose of this movement was that the people of that area were afraid that their identity might be lost because of unlimited migration and infiltration from the neighbouring countries. Sir, we have seen in Sikkim and Tripura that the local people have lost their identities because of migration and infiltration. So, a situation has arisen when the smaller sub-nationalities are apprehensive of losing their identity. It may be recalled that during the freedom struggle under Gandhiji's leadership, we throught of a truly federal structure of the country. Accordingly the linguistic States were formed. Just after independence, a tendency developed to postpone the issue. But after the death of Potti Sriramulu who fasted unto death for the formation of Andhra Pradesh, we acceded to the demands and the linguistic States were formed. Now, the purpose of our Constitution is also that India is a federation. But the attitude which prevailed among the Congress people during the freedom struggle underwent some changes after the attainment of independence. Because of the partition of the counrty, we were apprehensive that there would be further division of the country. Therefore, there was a tendency for a strong Centre. During Pandit Jawaharlal Nehru's regime or time, there were stalwarts in the provincial field like Kamraj, Morarji Desai, Sanjiva Reddy, Dr. B. C. Roy and others. These provincial leaders exerted much influence in the formation of this national policy. But after Pandit Jawaharlal Nehru, a tendency developed by which the State leaders were reduced to non-entities. I am not going into the details because the time is very short. A tendency developed so much so that somtimes even the M.L.A.s of a State were brought to Delhi on block to elect the leader of the party. Undue interference into the affairs of the State Assemblies, dismissal of duly elected State Chief Ministers and overemphasis on a strong Centre, these things taken together have created an impression among the people of the States that they are not going to be heard by the Centre and India is going to be a highly centralised country. We have seen symptoms of India becoming a highly centralised country. Therefore, the sentiments of the local people in the States were wounded. That is why, we have seen that today regional forces are coming up gradually State after State. The regional parties are coming up. It is because the national parties, particularly the ruling party, have failed to understand the legitimate aspirations of the people of the regions. And they have failed to solve those problems. There is a tendency to impose things from above. And we forgot the basic feature of our Indian nation, that is, unity in diversity. Instead of following this unity in diversity formula, we triend to impose uniformity. That is why, Sir, I have said in the state-

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ment of Objects and Reasons of my Bill, and I quote: "Multiplicity of identities is not a threat to the unity of the country..." It has been propagated by some leaders that this identity should not be there if we want to maintain unity and integrity of the country. According to me, this is not correct. That is why in the Statement of Objects and Reasons, I have said this, and I quote:

> "Multiplicity of identities is not a threat to the unity of the country, rather it reflects the vast complexity, and diversity of India. Unity in diversity is the basic feature of our country. If this pluralistic concept of Indian Nationalism is lost sight of then the unity and integrity of the country cannot be maintained. Pakistan had to pay heavy penalty of disintegration for ignoring regional hopes and aspirations. Our duty is to reconcile the regional identities with the National Unity within the framework of the Constitution. It is, therefore, high time that we examine the provisions of the Constitution and make suitable amendments in order to safeguard the political, linguistic and cultural identity of the people with permanent historic background in the State."

Sir, you know that the Naga national movement was launched for a sovereign Nagaland. Why had they launched this movement? They were apprehensive that after Nagaland being integrated into India, their identity would be lost. Similar is the feeling in Mizoram. That is why troubles are going on in those areas. So, it is high time we realised this reality of the situation. We should try to safeguard the identities of the people. We have formed linguistic States but we have not taken proper care to maintain those identities. That is why I have brought forward certain amendments. And it may be mentioned in this connection that the Government of India has signed an Accord with the Assam agitation leaders. There also it has been stated that the identity of the Assamese people will be safeguarded. How can that identity be safeguarded, by what procedure, and what amendments will be necessary to safeguard those identities? Sir, I have brought forward certain amendments to article 16:

> "In article 16 of the Constitution, after clause (3) the following clause shall be inserted namely:—
>
> "(3A) Nothing in this article shall prevent the State from making any law defining the classes of persons who are, or shall be, permanent resident of the State or conferring on such permanent residents any special rights and privilages or imposing any restrictions upon other persons in respect of,—
>
> (a) employment under a State Government, or
>
> (b) acquisition of immovable property in a State, or
>
> (c) settlement in a State."

Sir, I know that even today there is a law in certain States, perhaps, what is called the domicile law, in vogue. But unfortunately, in the smaller States, there is no such law—I may be corrected if I am wrong. In certain States, there is this law. The moment a person enters the State, he cannot enjoy all the rights. He has to obtain a domicile certificate. So, what I have intended by this amendment is that the State Government should be empowered to distinguish between a permanent resident and a temporary resident, and to impose reasonable restrictions in the matter of employment and acquisition of immovable property. Then, Sir, in article 19 of the Constitution, for clause (5), the following clause shall be substituted. In article 19 we have said that any person will be entitled to reside and settle anywhere in the country. The purpose of this article was not to create a situation in a State as to overwhelm the local population and convert the majority local population in to the minority. The founding fathers did not envisage such a situation. But, in practice, today we have seen that such situations have arisen in smaller States and therefore, Sir, I want an amendment to clause (d) and (e) of the

said clause, and therefore clause 5 should be substituted thus: "Nothing in sub-clause (d) and (e) of the said clause shall affect the operation of any existing law or shall prevent the State from making any law imposing reasonable restrictions on the exercise of any of the rights conferred by the said sub-clause either in the interests of the general public or the unity and integrity of India or for the protection of the interests of any Scheduled Tribe or for the protection and preservation of political, cultural and linguistic identity of a State having a permanent and historic background of language and culture." Sir, I want this amendment to be made.

Then, Sir, I want in article 30 of the Constitution this amendment, namely, to clause (1) the following proviso shall be added: "Provided that the regional language shall be taught compulsorily in all educational institutions established and maintained by minorities based on religion and language in a State."

Sir, in our Constitution certain peculiar provisions are there. Perhaps after the creation of Pakistan we were very much concerned for the minorities and nothing was said regarding their obligations. We have said many things for their rights but we have not said anything about their obligations. In a State even the minorities can run a school and they can refuse to learn the regional language and the State Government cannot stop aid and financial help to that school if they do not learn the regional language. So, how can we do away with social tensions? This is what is happening in smaller States. I want that at least the regional language should be learnt by all the minorities who reside in that particular State and moreover, who is in a minority. As a mater of fact, all the linguistic groups are minorities. They are called national minorities. Assamese people are also a minority in the context of the country. So, nobody should be allowed or given so much of a right as not to learn the regional language in that area.

Then, Sir, I come to another provision, namely, article 347 of the Constitution, in which it has been stated that the president after receiving the representation from a group of people can declare an additional language as a State language of a particular State. Sir, the State language of a particular State is determined by the Assembly or by the State Government. In view of this article, the perennial question remains alive. Supposing some hundred people submit a memorandum that their language should be declared an associate State language. So, there is a constant danger of friction among the different communities. It goes on. That is why this article should be omitted.

Sir, as there is not much time left, with these few words I move that this Bill may be taken up for consideration and passing. I had many more things to say but in view of the fact that there is shortage of time and also in view of the fact that I am retiring on the 2nd April, and there will be no other Friday between now and then to discuss this Bill, I want that this Bill may be taken up for consideration.

The Question was proposed.

श्री कल्पनाथ राय (उत्तर प्रदेश) : आदरणीय उपसभाध्यक्ष महोदय, हमारे मित्र श्री विश्व गोस्वामी जी ने जो बिल मूव किया है, इसकी कई बातों का हम समर्थन करते हैं कई ऐसी बातें हैं जिनका हम समर्थन नहीं कर सकते । इस बिल के उद्देश्य में लिखा हुआ है –कि भारत के संविधान के निर्माताओं ने भारत के बहुराष्ट्रिक स्वरूप को ध्यान में रखते हुए संविधान के संघीय ढांचे को चुना था। इसीलिए भारत को 'राज्यों का संघ' कहा गया है । राज्यों को, अन्य बातों के साथ-साथ भाषा और संस्कृति की स्थायी ऐतिहासिक विशिष्टता के आधार पर पुनर्गठित किया गया है । अतः सभी सम्बद्ध राज्यों की राजनीतिक, भाषायी और सांस्कृतिक विशिष्टताओं की रक्षा की जानी चाहिए और देश की एकता

[श्री कल्पनाथ राय]

और अखंडता की रक्षा करने और उन्हें मजबूत बनाने के लिए सभी राज्यों को बराबर का दर्जा दिया जाना चाहिए ।

असम और पूर्वोत्तर क्षेत्र के अन्य राज्यों के लोगों को यह आशंका है कि देश के अन्य राज्यों के निर्बाध रूप से लोगों के आ जाने और पड़ौसी बांगलादेश से घुसपैठ होने के कारण उनका विशिष्ट स्वरूप समाप्त हो जाएगा । सिक्किम और त्रिपुरा के उदाहरण उनके मन में ताजा हैं जहां बाहर से लोगों के आ जाने से वहां के स्थानीय लोग अल्पसंख्यक रह गए हैं । विदेशी राष्ट्रिकों के मसले को लेकर असम में लम्बे अर्से से और बड़े पैमाने पर जो आन्दोलन चल रहा है उसका मुख्य कारण यही आशंका है । सच तो यह है कि असम आन्दोलन ने, अपेक्षाकृत छोटे राज्यों को छोटी-छोटी राष्ट्रिकताओं की सांस्कृतिक और भाषायी विशिष्टताओं के संरक्षण के बहुत ही महत्वपूर्ण मुद्दे की ओर राष्ट्र का ध्यान आकृष्ट किया है ।

विविध राज्यों का अपना-अपना विशिष्ट स्वरूप देश की एकता के लिए खतरा नहीं है वरन यह भारत के विशाल स्वरूप और विविधता को प्रतिबिम्बित करता है । अनेकता में एकता हमारे देश की बुनियादी विशेषता है । यदि भारतीय राष्ट्रवाद को इस अनेकवादी संकल्पना को अनदेखा कर दिया जाए तो देश की एकता और अखंडता की रक्षा नहीं की जा सकती । प्रादेशिक आशाओं और आकांक्षाओं की अवहेलना करने के कारण पाकिस्तान को विखंडन का भारी दुष्परिणाम भुगतना पड़ा । हमारा कर्तव्य यह है कि हम संविधान के ढांचे के भीतर प्रादेशिक विशिष्टताओं का राष्ट्रीय एकता के साथ सामंजस्य स्थापित करें ।

अतः अब समय आ गया है कि हम किसी राज्य में स्थायी ऐतिहासिक पृष्ठ भूमि वाले लोगों की राजनीतिक, भाषायी और सांस्कृतिक स्वरूप की रक्षा करने के लिए संविधान के उपबन्धों की जांच करें और उसमें समुचित संशोधन करें ।

आदरणीय उपसभाध्यक्ष महोदय, हमारे मित्र श्री विश्व गोस्वामी जी ने संविधान के अनुच्छेद 16, अनुच्छेद 19 और अनुच्छेद 30 में संशोधन करने का प्रस्ताव किया है ।

धारा 16 में जो उन्होंने संशोधन की बात कही है, उस पर गौर किया जाए तो धारा 16 का पहले विचार करना आवश्यक है । धारा 16 में लिखा हुआ है—

Article 16: "There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office (under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory) prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making any provision for the reservation of apopintments or posts in favour of any backward class of citizens which in the opinion of the State, is not adequately represented in the services under the State.

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the

governing body thereof shall be a person professing a particular religion or belonging to a particular denomination."

Article 19: "Right to Freedom.—All citizens shall have the right—(a) to freedom of speech and expression; (b) to assemble peaceably and without arms; (c) to form associations or unions; (d) to move freely throughout the territory of India; (e) to reside and settle in any part of the territory of India; (g) to practise any profession or to carry on any occupation, trade or business.

(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from
5 P.M making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence."

THE VICE-CHAIRMAN (SHRI M. P. KAUSHIK): Mr. Kalp Nath. Rai, you can continue on the next non-official day on Bills. The debate on this Bill will continue. Now, we take up Special Mentions. Shri Lal K. Advani.

SHRI M. S. GURUPADASWAMY (Karnataka): Sir, it was said in the morning that a statement will be made on Jammu and Kashmir. What has happened to that?

THE VICE-CHAIRMAN: It was said very clearly 'may'. 'May' does not mean 'will'.

SHRI M. S. GURUPADASWAMY: We expect, a statement will be made. Will there be a statement even now?

THE MINISTER OF STATE IN THE DEPARTMENT OF PARLIAMENTARY AFFAIRS (RAJYA SABHA) (SHRI SITARAM KESRI): Not now. First Special Mentions. Later on,...

SHRI M. S. GURUPADASWAMY: I take it, after Special Mentions, there will be a statement.

श्री सीताराम केसरी : मेरे पास खबर है कि पहले लोकसभा में कर लेंगे उसके बाद यहां आयेगी तब तक आप यह कर लें ।

REFERENCE TO THE JUDGEMENT OF BOMBAY HIGH COURT ON M.D. EXAMINATION RESULTS.

SHRI LAL K. ADVANI (Madhya Pradesh): Mr. Vice-Chairman, Sir, the Bombay High Court has pronounced its verdict yesterday on the marks tampering case. The Court has held that a reasonable inference can be drawn that the Chief Minister of Maharashtra, Shri Patil Nilangekar and his daughter have been involved in this marks tampering scandal. Immediately, after the verdict was announced, normally, one expected that the Chief Minister would resign. He did not. In fact, he not only did not but he brazenly said: "Why should I quit, why?" This is what he said. Anyway, he has taken 24 hours. The latest is, he has resigned. देर आयद दुरुस्त । आयद कोई बात नहीं In fact, today, it seems, is a curious Friday. It is a day of resignations.

(Interruptions).

SHRI VISHWA BANDHU GUPTA: (Delhi): Not like Mr. Hegde, who first resigned and then came back.

संसदीय कार्य (राज्य सभा) विभाग में राज्य मंत्री (श्री सीताराम केसरी): कर्नाटक हाई कोर्ट के रिमार्क्स आपने पढ़े होंगे ।

श्री लाल कृष्ण आडवाणी : मैंने सब पढ़ लिया । मुझे नहीं कह सकते । I was certainly watching as to who else is going to resign. कहीं इधर सेभी कोई गड़बड़ न हो जाए ! एक चीफ मिनिस्टर